THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.4828 OF 2007

DATED 26th MARCH, 2007

Between

Mulla Khaja Hussain

... Petitioner

AND

A.P.State Wakf Board, rep.by its Chief Executive Officer, Haj House Complex, Nampally, Hyderabad and others.

.... Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

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ORDER:

The petitioner is resident of Veldurthy village in Kurnool District. He claims to be trustee of Jamia Mosque, Veldurthy since 29.12.2004. It is his case that Jamia Mosque is managed by the trust known as Jamia Masjid Development Association. His father was the trustee till his death and later the petitioner was recorded as trustee by Sarpanch of the Gram Panchayat vide Resolution, dated 17.08.2005. He alleges that Jamia Mosque was reconstructed in 1977 and twelve (12) shops bearing Nos.13/67 to 13/67/11 are attached to the mosque. The land in the graveyard in survey No.648/3 was purchased by the erstwhile trustees in 1929 and so as to augment the income of the mosque, twelve shops were constructed in the land admeasuring Acs.0.91 by the erstwhile trustees. However, at the instance of one Yousuf Miyan, S/o Sadu Ghouse Miyan, the first respondent registered Jamia Mosque as registered wakf along with 12 shops, Idgah and Graveyard. A Muntakab was also issued on 01.12.2005. Some time later, the second respondent issued proceedings, dated 08.01.2007 directing the third respondent to mutate twelve shops in favour of Idgah Mosque, Veldurthy, though the suit filed by Yousuf Miyan being O.S.No.403 of 2004 on the file of the Court of the Principal Junior Senior Judge, Kurnool, was dismissed on 09.08.2006. The petitioner,

therefore, filed W.P.No.3211 of 2007 challenging the proceedings of the second respondent ordering mutation in favour of Idgah Mosque. This Court passed interim orders in W.P.M.P.No.4098 of 2007, dated 20.02.2007 directing interim stay of further proceedings pursuant to Memo dated 08.01.2007 of the second respondent herein. At this stage, the District Collector issued impugned proceedings directing the fifth respondent to help the Idgah Mosque Committee to collect rents for twelve shops. Feeling aggrieved by this, present writ petition is filed.

Learned counsel for the petitioner submits that registering Jamia Mosque, Veldurthy as a wakf itself is contrary to Section 36 of the Wakf Act, 1995. Second respondent did not conduct any enquiry before directing the third respondent to mutate the shops in favour of the Idgah Mosque and that even when there is a dispute as to who are the owners of twelve shops situated in survey No.648/3, the fourth respondent issued impugned proceedings, which amounts to interfering in a civil dispute. **Opposing** the writ petition, learned standing counsel for the first respondent submits that the civil dispute, if any, between the petitioner and the sixth respondent was not decided by the fourth respondent. According to the learned standing counsel, so as to prevent any law and order problem with regard to the collection of rents for twelve shops, sixth respondent was directed to help Idgah Mosque Committee to collect the rents. He would also submit that if the petitioner is aggrieved by the impugned order, he can as well approach the District Collector and make a representation.

A perusal of the affidavit accompanying the writ petition would certainly show that there is a dispute between the petitioner and the sixth respondent regarding ownership of Jamia Mosque, graveyard and Idgah situated in Veldurthy. There is, however, no dispute that Jamia Masjid has already been registered as a wakf and if the petitioner alleges that there were irregularities in registering the wakf under the Wakf Act, it is always open to him to approach the Wakf Tribunal and agitate the matter. Admittedly, though the Jamia Masjid was registered as a wakf by the Wakf Board some time ago, the petitioner did not agitate the matter in any forum. If the disputed shops are not part of the Jamia Masjid as alleged by the petitioner and they belong to Jamia Masjid Development Association, no dispute has ever been raised by the petitioner in any forum. Therefore, it would not be proper to assume that fourth respondent intervened in a civil dispute. A perusal of the impugned order would show that having considered the representations made by the President of the Managing Committee of Idgah Mosque (a registered wakf), the fourth respondent directed the fifth respondent to see that rents are collected by the Idgah Mosque

Committee. Needless to mention that when once twelve shops are shown as property of the registered wakf, unless and until a duly constituted forum nullifies such declaration, it is presumed that twelve shops belong to the registered wakf. Even in this regard, it is always open to the petitioner to approach the District Collector and submit a representation. In which event, this Court observes, that the same may be considered by fourth respondent after giving notice to the rival group. The petitioner can even challenge the notification issued by the first respondent in registering Idgah Mosque, Veldurthy, along with twelve shops and other properties before the Wakf Tribunal.

The writ petition is misconceived and is accordingly dismissed, with the above observations. No costs.

(V.V.S.RAO,J)

26.03.2007.
pln